

EXCEPTION

OPEN MEETING ITEM

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BEFORE THE ARIZONA CORPORATION COMMISSION
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Arizona Corporation Commission

COMMISSIONERS

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GARY PIERCE, Chairman
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AZ CORP COMMISSION
DOCKET CONTROL

AUG 31 2011

DOCKETED BY

In the matter of:

DOCKET NO. S-20761A-10-0409

JERE PARKHURST and MICHELLE
PARKHURST, husband and wife, doing
business as C-Street Financial Group and C-
Street Development, L.L.C.;

**SECURITIES DIVISION'S EXCEPTIONS TO
RECOMMENDED OPINION AND ORDER**

C-STREET HOLDINGS, L.L.C., a
dissolved Arizona limited liability company;
and

PHOENIX FINANCIAL HOLDINGS,
L.L.C., a terminated Arizona limited liability
company;

Respondents.

Pursuant to R14-3-110(B) of the Arizona Administrative Code, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") submits its exceptions to the Administrative Law Judge's August 22, 2011, Recommended Opinion and Order ("Opinion"). The Division recommends specific changes to the Opinion for the reasons set forth below.

ANALYSIS

The Division supports the findings of fact and conclusions of law in the Opinion; however, the Division is submitting the exceptions for purposes of making technical corrections to the proposed Opinion. The Division requests three changes to the Opinion.

The Division makes two of its requests based upon a recent change in the law. Effective July 20, 2011, new language was added to Arizona Revised Statutes § 44-1201, the statute that addresses interest rates. Currently, the Opinion requires that the restitution ordered, "shall bear

1 interest at the rate of 10 percent per year for the period from the dates of investment to the date of
2 payment of restitution by Respondents.” (page 14, lines 13-15). However, effective July 20,
3 2011, the new statutory language for ordering interest is “the lesser of ten per cent per annum or at
4 a rate per annum that is equal to one per cent plus the prime rate as published by the board of
5 governors of the federal reserve system in statistical release H.15 or any publication that may
6 supersede it on the date that the judgment is entered.” Therefore, the Division makes this request
7 to be consistent with the new statutory language regarding interest.

8 Second, regarding the interest on the penalty, the Division requests that the new statutory
9 language also be inserted to be consistent with the changes to the law effective July 20, 2011 (page
10 15, line 17). The Division’s proposed language is “interest at the rate of the lesser of ten per cent
11 per annum or at a rate per annum that is equal to one per cent plus the prime rate as published by
12 the board of governors of the federal reserve system in statistical release H.15 or any publication
13 that may supersede it on the date that the judgment is entered.”

14 Third, the Opinion contains a restitution ordering paragraph (page 14, line 3) that states
15 restitution shall “not to exceed \$824,260. . .” The Division admitted into evidence Exhibit S-39
16 which listed the accurate investment amounts for each investor that totals \$824,260. Therefore,
17 the Division requests that the “not to exceed” language be deleted.

18 CONCLUSION

19 Based on the foregoing, the Division respectfully requests the following:

20 Page 14, line 3, DELETE “an amount not to exceed”

21 Page 14, line 3, after “restitution in,” INSERT “the amount of”

22 Page 14, lines 14-15, DELETE “10 percent per year for the period from the dates of
23 investment to the date of payment of restitution by Respondents.”

24 Page 14, line 14, after “rate of,” INSERT “the lesser of ten per cent per annum or at a rate
25 per annum that is equal to one per cent plus the prime rate as published by the board of governors
26

1 of the federal reserve system in statistical release H.15 or any publication that may supersede it on
2 the date that the judgment is entered."

3 Page 15, line 17, DELETE "at the maximum level amount"

4 Page 15, line 17, after "interest," INSERT "at the rate of the lesser of ten per cent per
5 annum or at a rate per annum that is equal to one per cent plus the prime rate as published by the
6 board of governors of the federal reserve system in statistical release H.15 or any publication that
7 may supersede it on the date that the judgment is entered"

8
9 Respectfully submitted this 31st day of August, 2011.

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11 By: 

12 Aikaterine Vervilos
13 Attorney for the Securities Division of
14 the Arizona Corporation Commission
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1 ORIGINAL and 13 copies of the foregoing
2 filed this 31th day of August, 2011, with:

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4 Arizona Corporation Commission
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8 this 31th day of August, 2011, to:

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